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FACSIMILE TRANSMITTAL SHEET

To: Examiner K. Mahone, Group 3751

FIRM/COMPANY: U.S. Patent and Trademark Office

FACSIMILE NUMBER: 571-273-8300

**CONFIRMATION
TELEPHONE:** 571-272-3680

FROM: Stephan Gribok

DIRECT DIAL: 215.979.1283

DATE: June 8, 2007

USER NUMBER: 1023

FILE NUMBER: Attorney Ref. D4700-00396

**Serial No. 10/538,552, filed June 13, 2005, Grohe, K.
Shower Support**

TOTAL # OF PAGES: 5
(INCLUDING COVERSHEET)

MESSAGE: The attached message and enclosures represent a statement of the substance of the Examiner Interview conducted over phone calls from June 7 - June 8, 2007, to be made of record in the application.

NOTE: Original will not follow

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JUN 08 2007

Gribok, Stephan P.

From: Mahone, Kristie A. [Kristie.Mahone@USPTO.GOV]
Sent: Friday, June 08, 2007 1:42 PM
To: Gribok, Stephan P.
Subject: RE: SN 10/538,552 - Grohe "Shower Support" (Our refs. D4700-396 and P42230 WO/US)

Mr Gribok,

Could you please fax your comments and counterproposal to the official fax number, so that they can be made of record as requested --571-273-8300.

Thank you,
Kristie A. Mahone

-----Original Message-----

From: Gribok, Stephan P. [mailto:SPGribok@duanemorris.com]
Sent: Friday, June 08, 2007 10:49 AM
To: Mahone, Kristie A.
Cc: IP Docketing
Subject: SN 10/538,552 - Grohe "Shower Support" (Our refs. D4700-396 and P42230 WO/US)

Dear Examiner Mahone:

Upon considering the claim you proposed after conferring with your SPE (see attachment), it appears that there are problems with the proposed claim that we need to address. Applicant submits herewith a counterproposal (page 2 of attachment) that addresses these problems. The counterproposal accepts some but not all of the limitations that were proposed in your claim.

The proposed addition to state that the arm is pivotable (considered necessary to distinguish a threaded connection) does not say how or where or why the arm is pivotable. We should say that the support is adjustable for pivoting the arm relative to the mounting fixture. This provides the distinction over a threaded connection between the arm and the wall, as you required.

After prosecuting a claim saying that the receptacle for the hand shower is "in the vicinity of the end," it is unnecessarily limiting to require the receptacle to be "at" the end. The receptacle holds the hand showerhead in a way that overlaps and protrudes beyond the end of the arm in the exemplary embodiment. The claim should recite that the receptacle should be recited as adjacent to the end. This language is accurate and definite.

The claim you proposed says that the receptacle is adapted to receive the shower head (the hand shower) "when not in operation." However the hand shower head can spray when the shower head is disposed in the receptacle, and is then "in operation," if by that you mean spraying water. The hand shower is in the receptacle when not being aimed or manipulated by hand.

There is no basis to require that the arm be made of hollow stock. That is an embodiment. An embodiment with a conduit running along the arm is supported at page 2, line 12. A specifically hollow arm is not necessary to distinguish over the prior art.

Your proposed claim lacks antecedent basis for "the additional shower fixture" at line 8.

The attached counterproposal claim addresses the foregoing matters without introduction of new matter, and distinguishes over the prior art of record. I understand that the official offer to allow was with the amended claim exactly as you proposed yesterday, but applicant submits that the

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counterproposal is a better and more appropriate claim. Please take this up with your SPE. Applicant would agree to an amendment according to the counterproposal. Applicant declines to accept the claim proposed yesterday and requests a further official action if the counterproposal is not deemed allowable. I am available if necessary to discuss further revisions or potential compromises.

We need to make the substance of our examiner interview discussions of record. Applicant proposes that this email message and the accompanying two drafts of claim 1 be attached to an examiner interview summary record to meet that requirement.

Thank you for your attention and assistance.

Regards,
S. Gribok
Reg. 29,643

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